

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
SOUTHERN DIVISION**

FRED ERBY,)	
)	
Petitioner,)	
)	
v.)	Case No. 6:13-cv-03393-MDH
)	
WARDEN LINDA SANDERS,)	
)	
Defendant.)	
)	
)	

ORDER

Currently pending before the Court is Fred Erby's Petition for Writ of Habeas Corpus (Doc. 1). The Court finds that Petitioner was lawfully confined pursuant to 18 U.S.C. § 4246 at the time he filed his petition and at all times thereafter. Therefore, the Court **DENIES** the petition for writ of habeas corpus.

Petitioner was committed to the custody of the Attorney General on October 17, 2007 pursuant to 18 U.S.C. § 4241(d) for further mental health evaluation. On October 15, 2008, Petitioner was civilly committed to the U.S. Medical Center for Federal Prisoners (USMCFP) under 18 U.S.C. § 4246. The Eighth Circuit affirmed the Court's decision to commit Mr. Erby on appeal. Petitioner's habeas petition arises from the time period he spent in custody at the USMCFP from August 8, 2013 to December 12, 2013. Petitioner was in custody at this time pending the government's motion to revoke his conditional release. Specifically, Petitioner was arrested and returned to the facility after being charged with sexually assaulting a woman at knifepoint. Petitioner filed the present habeas petition on September 11, 2013, alleging that his custody violated the Constitution and that his rights to a speedy trial were violated.

Pursuant to governing law and in accordance with Local Rule 72.1 of the United States District Court for the Western District of Missouri, Petitioner's motion was referred to the United States Magistrate Judge for preliminary review under 28 U.S.C. § 636(b). The Magistrate Judge conducted a preliminary review of the underlying case, the habeas petition, and the government's response to the petition. The Magistrate Judge then submitted a report and recommendation to the undersigned, including proposed findings of facts and recommendations for the disposition of the case. (Doc. 10). Neither party filed exceptions to the report and recommendations within the statutory 14-day period.

The Court agrees with the report and recommendation issued by the United States Magistrate Judge, and in accordance with such:

IT IS HEREBY ORDERED that the report and recommendation of the United States Magistrate Judge (Doc. 10) is **ADOPTED**.

IT IS FURTHER ORDERED that Petitioner's Petition for Writ of Habeas Corpus (Doc. 1) is **DENIED**.

IT IS FURTHER ORDERED that all other pending motions are **DENIED** as both moot and without merit.

IT IS SO ORDERED:

DATE: September 18, 2014

/s/ Douglas Harpool
DOUGLAS HARPOOL
UNITED STATES DISTRICT JUDGE